



JPW

PATENT

Customer No. 22,852

Attorney Docket No. 09423.0040-00000

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
)  
Doreen S. RAO et al. ) Group Art Unit: 3731  
)  
Application No.: 10/075,144 ) Examiner: S.K. Webb  
)  
Filed: February 14, 2002 )  
) Confirmation No.: 6889  
For: SYSTEM FOR MAINTAINING )  
BODY CANAL PATENCY AND )  
METHOD THEREOF )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO RESTRICTION REQUIREMENT**

In a restriction requirement dated May 25, 2004, the Examiner required restriction under 35 U.S.C. § 121 between Group I, claims 1-23, drawn to a device, Group II, claims 26 and 27, drawn to a method of implanting a device, and Group III, claims 24 and 25, drawn to a delivery assembly. The Examiner further required an election between alleged distinct Species A (Figure 1), Species B (Figure 2), Species C (Figure 3A), Species D (Figure 3B), Species E (Figure 4C), Species F (Figures 4G and H), Species G (Figure 4I), and Species H (Figure 7), if Applicants chose to elect Group I.

Applicants do not necessarily agree with the Examiner's characterizations and assertions regarding Applicants' claims and the alleged patentably distinct Groups and Species, and Applicants reserve the right to argue the distinctness or lack of distinctness of the claim Groups and Species at a later time. Nonetheless, to expedite

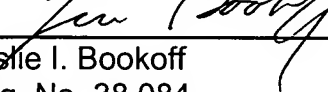
prosecution, Applicants provisionally elect to prosecute Group I and the embodiment of Species C relating to Figure 3A. Applicants submit that, of the Group 1 claims, at least claims 1-3, 5-9, 13-14, 16-18, and 22 cover the alleged Species C. Accordingly, Applicants request that claims 1-3, 5-9, 13-14, 16-18, and 22 be examined and that claims 4, 10-12, 15, 19-21, and 23-27 be withdrawn from consideration.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: July 20, 2004

By:   
Leslie I. Bookoff  
Reg. No. 38,084

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